

### **Remarks**

#### **Summary of Action:**

Initially, Applicants note the Examiner's comments concerning the claims in the Preliminary Amendment. Applicants are submitting the claims in the proper format with this response. Minor clerical amendments are being submitted in some of the present claims. No new matter is being submitted with these amendments.

Claims 1-21 are pending in this Application. The Examiner asserted that the following groups of inventions are not so linked as to form a single general inventive concept under PCT Rule 13.1, and has entered a restriction requirement under 37 CFR 1.499:

- Group I: Claims 1-17, drawn to a wall system;
- Group II: Claim 18, drawn to a wall; and,
- Group III: Claims 19-21, drawn to a method of constructing a modular wall.

Additionally, the Examiner asserts that the claims are directed to more than one species of the generic invention, and that the species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. Thus, the Examiner is requesting an election of one of the following species:

- Species I: FIG. 1 (claims 1-12 and 16-21);
- Species II: FIG. 5 (claims 1-21); and,
- Species III: FIG. 7 (claims 1-12 and 16-21).

#### **Election With Traverse:**

In response to the restriction requirement, Applicants respectfully traverse the restriction requirement, and request that the requirement be withdrawn.

Pursuant to M.P.E.P. § 803, a restriction requirement is proper only if: (1) the inventions are independent or distinct as claimed, and (2) there would be a serious burden on the Examiner if the restriction is not required. Here, with regard to Group I (claims 1-17) and Group II (claim 18), both refer to the same special technical feature of the reinforcing member. Because each Group relates to a wall system and a wall comprising a plurality of elongate panel members and both having a reinforcing member, Applicants submit that the same classes and subclasses would be searched for each group. Thus, there would be no serious burden on the Examiner if the restriction is not required.

For example, claim 1 incorporates a wall system comprising a plurality of elongate panel members, wherein at least some of the panel members are provided with an elongate reinforcing member, while claim 18 incorporates a plurality of modules, each module comprising a plurality of elongate panel members, wherein at least some of the panel members are provided with an elongate reinforcing member. While these claims are patentably distinct, the core patentable components are present in each of these embodiments, and therefore a search of these core components would be identical for each of Groups I and II.

Applicants further submit that the Examiner presented no rationale whatsoever as to why it is believed that the inventions as claimed are distinct. Thus, a restriction requirement is inappropriate. Accordingly, Applicants respectfully request that the restriction requirement be withdrawn based on a failure to provide reasons why the invention "as claimed" is distinct as required under M.P.E.P. §808.

Moreover, a *prima facie* showing has not been made for insisting upon the restriction. Nothing has been represented to Applicants to show a serious burden if restriction is not required. Therefore, Applicants respectfully request that the restriction requirement be withdrawn with regard to the groups of inventions because there would not be a serious burden if restriction is not required.

If the Examiner makes the restriction requirement final, Applicants provisionally elect to prosecute the claims of Group I, at least claims 1-17. Additionally, Applicants elect to prosecute Species II, which includes claims 1-21. As such, Applicants request that claim 18 in Group II and claims 19-21 in Group III and Species I and III, be withdrawn without prejudice if the restriction is not removed. Additionally, Applicants submit that at least claims 1-12 and 16-21 are generic and generally relate to a wall system. Appropriate status identifiers will be added to the claims in the next response, based on the outcome of the restriction requirement.

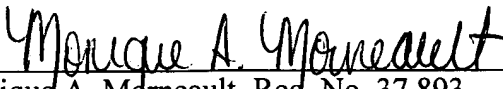
Upon allowance of a generic claim, Applicants will be entitled to conform all of the claims directed to the non-elected species to be in dependent form or to otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. §1.141, and have those claims examined in the present Application.

The Examiner is requested to contact the undersigned if the Examiner has any questions concerning this Reply, or if it will expedite the progress of this application.

Respectfully submitted,

Dated: April 30, 2009

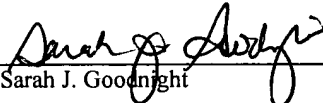
By: \_\_\_\_\_

  
Monique A. Morneault, Reg. No. 37,893  
Customer No. 1923  
McDermott Will & Emery LLP  
227 West Monroe Street  
Chicago, Illinois 60606-5096  
(312) 372-2000

---

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service, with first class postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 30, 2009.

  
\_\_\_\_\_  
Sarah J. Goodnight

CHI99 5114383-1.077164.0014